

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

JAMES EDWARD WALLACE,	)	
# AIS 207922,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CASE NO. 2:17-CV-292-WKW
	)	[WO]
PHIL BRYANT, Executive Director,	)	
Board of Pardons & Parole, in his	)	
individual and official capacities,	)	
	)	
Defendant.	)	

**ORDER**

Plaintiff, an inmate in the custody of the Alabama Department of Corrections, brings this action under 42 U.S.C. § 1983, alleging that he is serving an illegal sentence in violation of his constitutional rights. His verified complaint includes a motion for a temporary restraining order and a motion for a preliminary injunction. (Doc. # 1.)

Federal Rule of Civil Procedure 65(b) governs requests for temporary restraining orders. Of relevance here, Rule 65(b) imposes two requirements on a movant who seeks the issuance of a temporary restraining order “without written or oral notice to the adverse party or its attorney.” Fed. R. Civ. P. 65(b). First, “specific facts in an affidavit or a verified complaint clearly [must] show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party

can be heard in opposition.” *Id.* at 65(b)(1)(A). Second, the movant must “certif[y] in writing any efforts made to give notice and the reasons why it should not be required.” *Id.* at 65(b)(1)(B).

Plaintiff’s verified complaint falls short of meeting Rule 65(b)’s prerequisites for the exceptional remedy of a temporary restraining order. It does not show that immediate or irreparable injury will occur from the short delay required to provide notice to Defendant and to permit him an opportunity to respond to the allegations. Additionally, Plaintiff has not submitted the certification required by Rule 65(b)(1)(B). For these reasons, Plaintiff’s motion for a temporary restraining order will be denied, and a ruling on Plaintiff’s motion for a preliminary injunction will be reserved until such time that Defendant has been given an opportunity to be heard.

Accordingly, it is ORDERED that Plaintiff’s motion for a temporary restraining order (Doc. # 1) is DENIED.

It is further ORDERED that Plaintiff’s motion for a preliminary injunction is REFERRED to the Magistrate Judge for further proceedings and a recommendation.

DONE this 8th day of May, 2017.

/s/ W. Keith Watkins  
CHIEF UNITED STATES DISTRICT JUDGE